

§5.5

VEGETABLES FOR FRESH MARKET

Artichokes, asparagus, snap beans, broccoli, cabbage, cantaloups, carrots, cauliflower, celery, sweet corn, cucumbers, eggplant, escarole, garlic, honeydew melons, lettuce, onions, green peppers, spinach, tomatoes, and watermelons.

VEGETABLES FOR PROCESSING

Asparagus, lima beans, snap beans, beets, cabbage, sweet corn, cucumbers, green peas, spinach and tomatoes.

OTHER COMMODITIES

Beef cattle; hogs; lambs; calves; sheep; turkeys; eggs; beeswax; potatoes; hops; peppermint oil; popcorn; spearmint oil; tobacco. Types 61 and 62; barley; beans, dry edible; cottonseed; peas, dry field; flaxseed; hay, all baled; oats; rye; sorghum grain; soybeans; sweetpotatoes; and crude pine gum.

[21 FR 763, Feb. 3, 1956, as amended by Amdt. 1, 22 FR 693, Feb. 2, 1957; Amdt. 3, 23 FR 1565, Mar. 5, 1958; Amdt. 17, 31 FR 10767, Aug. 13, 1966; Amdt. 23, 34 FR 1132, Jan. 24, 1969; Amdt. 25, 34 FR 15785, Oct. 14, 1969; Amdt. 26, 35 FR 3158, Feb. 19, 1970; Amdt. 27, 36 FR 15516, Aug. 17, 1971; 38 FR 10795, May 2, 1973]

§5.5 Publication of season average, calendar year, and parity price data.

(a) New adjusted base prices for all of the commodities on a calendar year basis and for as many of the commodities on a marketing season average basis as are practicable shall be published on or about January 31 of each year. In cases where preliminary marketing season average price data are used in estimating the adjusted base prices published in January, any additional price data which becomes available shall be used in estimating a revised adjusted base price which shall be published prior to the beginning of the marketing season for the commodity.

(b) The official parity prices determined under section 301(a)(1) and the regulations in this part and the indexes and relevant price data shall be published in the monthly report "Agricultural Prices" issued by the National Agricultural Statistics Service. Parity prices for all commodities for which parity prices are computed shall be so published in the January and July issues each year. The parity prices published in other issues may be restricted to those which the National Agricultural Statistics Service, after consulta-

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tion with the Agricultural Marketing Service, the Farm Service Agency, and any other interested government agency, considers necessary or desirable. The parity prices determined in accordance with this part shall be the parity prices used in other reports, determinations, or documents of the Department.

[21 FR 763, Feb. 3, 1956, as amended by Amdt. 16, 30 FR 2521, Feb. 26, 1965]

§5.6 Revision of the parity price of a commodity.

(a) *Initiation of hearings.* The "modernized" parity formula specified in section 301(a)(1) of the Agricultural Adjustment Act of 1938, as amended, takes into consideration the average prices received by farmers for agricultural commodities during the last ten years and is designed gradually to adjust relative parity prices of specific commodities for persistent or continuing changes in demand and supply conditions which are reflected in market prices. Accordingly, only in rare cases is it possible for the parity price of any agricultural commodity to become seriously out of line with the parity prices of other agricultural commodities. In any case, however, in which producers of any agricultural commodity believe that the parity price of such commodity, as computed pursuant to the provisions of section 301(a)(1), is seriously out of line with the parity prices of other agricultural commodities, a request for a public hearing under section 301(a)(1)(F) may be submitted to the Secretary of Agriculture by a substantial number of interested producers. The producers shall also furnish to the Secretary, with such request or separately, data supporting their conclusion that the parity price of such commodity is seriously out of line with the parity prices of other commodities. Upon receipt of such a request with supporting data, or at any time upon the Secretary's own motion, this Department will make a preliminary study of the relationship between the parity price of such commodity and the parity prices of other

commodities, and if the Secretary concludes that there appears to be reasonable grounds for believing that the parity price of such commodity is seriously out of line with the parity prices of other agricultural commodities, a hearing will be held pursuant to the provisions of section 301(a)(1)(F).

(b) *Notice of hearing.* If the Secretary of Agriculture determines that such a hearing shall be held, he shall issue a notice of the hearing, which shall be filed with the Hearing Clerk of the United States Department of Agriculture, who shall promptly (1) cause such notice to be published in the FEDERAL REGISTER, and (2) mail a copy thereof to each of the producers who requested the hearing and to grower organizations known to be interested in the hearing. Legal notice of the hearing shall be deemed to be given upon filing such notice with the FEDERAL REGISTER for publication, and failure to give notice in the manner otherwise provided in this paragraph shall not affect the legality of the notice. The notice of hearing shall state the purpose of the hearing and the time and place of the hearing. The time of the hearing shall not be less than fifteen days after the date of publication of the notice in the FEDERAL REGISTER, unless the Secretary shall determine that an emergency exists which requires a shorter period of notice, in which case the period of notice shall be that which the Secretary determines to be reasonable in the circumstances.

(c) *Conduct of hearing*—(1) *Presiding officer.* Each hearing held under section 301(a)(1)(F) shall be presided over by a Hearing Examiner of the Office of Administrative Law Judges or such other employee of the Department as the Secretary may designate for the purpose.

(2) *Time and place of hearing.* Each hearing shall be heard at the time and place set forth in the notice of hearing but may be continued by the presiding officer from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing.

(3) *Order of procedure.* At the commencement of the hearing, the presiding officer shall file as an exhibit a copy of the FEDERAL REGISTER con-

taining the notice of the hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received from interested persons in such order as the presiding officer shall prescribe.

(4) *Submission of evidence.* The hearing shall be conducted in such a way as to obtain a clear and orderly record. All interested persons appearing at the hearing shall be given reasonable opportunity to offer data, views, or arguments relevant to (i) whether the parity price for the agricultural commodity involved is or is not seriously out of line with the parity prices of other agricultural commodities, and (ii) the proper relationship between the parity price of such commodity and the parity prices of other agricultural commodities and the revisions, if any, which should be made in computing the parity price of such commodity. All documentary exhibits shall be submitted in duplicate. The presiding officer shall, insofar as possible, exclude irrelevant, immaterial, or unduly repetitious evidence but shall not apply technical judicial rules of evidence. Every witness shall be subject to questioning by the presiding officer or by any other representative of the Department, but cross-examination by other persons shall not be allowed, except in the discretion of the presiding officer. The proceedings at the hearing shall be transcribed verbatim.

(5) *Written arguments.* The presiding officer shall fix a time, not to exceed ten days from the close of the hearing, within which interested persons may file written arguments with the Hearing Clerk.

(d) *Preparation and issuance of determination*—(1) *Preparation of recommendation.* As soon as practicable after the close of the hearing, the presiding officer, or such employees of the Department as may be assigned for the purpose, shall review, consider, and weigh all evidence of probative value, views, and arguments which have been submitted, and may consider other pertinent information and data which is available in the Department of Agriculture, and shall submit a recommendation thereon to the Secretary.

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(2) *Determination by the Secretary.* As soon as possible after receipt of the recommendation, the Secretary shall determine whether the parity price of such commodity computed in accordance with section 301(a)(1) appears to be seriously out of line with the parity prices of other agricultural commodities whether the facts require a revision of the method of computing the parity price of such commodity, and the revision, if any, which is required in the method of computing the parity price of such commodity. Such determination by the Secretary shall be final. The Secretary's determination shall be filed with the Hearing Clerk who shall cause the determination to be published promptly in the FEDERAL REGISTER. The Hearing Clerk shall also mail a copy of the determination to each producer and grower organization which participated in or is known to be interested in the hearing. Upon application to the Hearing Clerk, any person shall be entitled to a copy of the determination.

[23 FR 9252, Nov. 29, 1958]

PART 6—IMPORT QUOTAS AND FEES

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CROSS REFERENCE: For United States International Trade Commission regulations on investigations of effects of imports on agricultural programs, see 19 CFR part 204.

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AUTHORITY: Sec. 8, 65 Stat. 75; 19 U.S.C. 1365.

SOURCE: 17 FR 8287, Sept. 16, 1952; 19 FR 57, Jan. 6, 1954, unless otherwise noted.

§ 6.2 Responsibility for actions under section 22 and section 8(a).

The primary responsibility within the Department of Agriculture for action on matters for which the Secretary is responsible under section 22 of the Agricultural Adjustment Act of 1933, as amended, and section 8(a) of the Trade Agreements Extension Act of 1951 is assigned to the Administrator, Foreign Agricultural Service (referred to in this part as the "Administrator"), but the other offices, agencies, and bureaus of the Department whose activities will be affected by any action under section 22 or section 8(a) shall be consulted by the Administrator in discharging his responsibility under this part.

§ 6.3 Requests by interested persons for action by Department of Agriculture.

(a) *Section 22.* A request for action under section 22 should be submitted in duplicate to the Administrator, Foreign Agricultural Service, United States Department of Agriculture, Washington 25, D.C. Such request shall